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No. 886

KARNATAKA LEGISLATIVE ASSEMBLY

NOTIFICATION

No 14542 L.A.—L. DATED 29 March 1975

The following Bill was introduced in the Legislative Assembly on 29th March, 1975.

THE KARNATAKA SALES TAX (SECOND AMENDMENT) BILL, 1975.

(L.A. Bill No. 15 of 1975)

An Act further to amend the Karnataka Sales Tax Act, 1957.

Whereas it is expedient further to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Twenty-sixth year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Karnataka Sales Tax (Second Amendment) Act, 1975.

(2) It shall come into force on the first day of April 1975.

2. Amendment of section 5.—In sub-section (1) of section 5 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) (hereinafter referred to as the principal Act),—

(i) for the words "three and a half per cent", the words "four per cent" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that if and to the extent to which such turnover relates to—

(i) pulses including tur dhals, flour and husks, wheat (including atta, maida, soji and bran), rice (including parched rice and beaten rice and bran) ragi, jola, maize, bajra, navane and samey (ಸಾಮೆ), the tax shall be calculated at the rate of one and a half per cent of such turnover;

(ii) gunny bags, bardans (including batars) and hessian cloth and Gur (Jaggery), the tax shall be calculated at the rate of two per cent of such turnover ;"

3. Insertion of new section 6B.—After section 6A of the principal Act, the following new section shall be inserted, namely :-

"6B. **Levy of additional tax.**—(1) There shall be levied and collected from every dealer liable to pay tax under section 5 or under section 6 and whose total turnover is ten lakh rupees or more in a year, an additional tax at the rate of ten paise in the rupee on the sales tax or purchase tax or both, payable by such dealer :

Provided that in respect of the sale or purchase of any of the declared goods mentioned in the Fourth Schedule, the tax together with the additional tax shall not exceed three per cent of the sale or purchase price thereof.

(2) The provisions of this Act and the rules made thereunder including those relating to refund or exemption from tax shall, so far as may be, apply in relation to the levy, assessment and collection of the additional sales tax or additional purchase tax or both, as they apply in relation to the levy, assessment and collection of sales tax or purchase tax under this Act.".

4. Amendment of section 18.—In section 18 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Notwithstanding anything contained in sub-section (1), no dealer who is liable to pay the additional tax under section 6B, shall collect any amount by way of such additional tax or purporting to be by way of such additional tax payable by him."

5. Amendment of section 29.—In sub-section (2) of section 29 of the principal Act, after clause (cc), the following clause shall be inserted, namely :—

"(ccc) collects any amount by way of additional tax or purporting to be by way of additional tax in contravention of sub section (3) of section 18 ; or".

6. Amendment of Second Schedule.—In the Second Schedule to the principal Act—

(1) in column (3) of serial No. 13, for the words " six per cent ", the words " twelve per cent " shall be substituted ;

(2) in column (3) of serial No. 49, for the words " three per cent ", the words " four per cent " shall be substituted ;

(3) in column (3) of serial No. 51, for the words " two per cent ", the words " three per cent " shall be substituted ;

(4) for serial No. 77, the following shall be substituted, namely :—

" 77.	Ceramic and glazed mosaic tiles and chips, floor and wall tiles	Twelve per cent. "

(5) in column (3) of serial No. 81A, for the words " three per cent ", the words " four per cent " shall be substituted ;

(6) in column (3) of serial No. 86, for the words " three per cent " the words " four per cent " shall be substituted.

(7) in column (3) of serial No. 87, for the words " three per cent ", the words " four per cent " shall be substituted ;

(8) in column (3) of serial No. 88, for the words " three per cent ", the words " four per cent " shall be substituted ;

(9) in column (3) of serial No. 117, for the words " three per cent " the words " four per cent " shall be substituted ;

(10) in column (3) of serial No. 129, for the words " ten per cent ", the words " twelve per cent " shall be substituted ;

(11) after the entries relating to serial No. 129, the following entries shall be inserted, namely:-

"130.	Silk fabrics, namely all varieties of fabrics manufactured either wholly or partly from silk and includes embroidery in piece, in strips or in motifs but does not include silk fabrics woven on handlooms and any fabric on which duty of excise is leviable under the Additional duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957) ..	Six per cent
131.	All kinds of welding electrodes and welding rods ..	Eight per cent
132.	Graphite electrode anode and Arc Carbons ..	Eight per cent
133.	Asphalt (Bitumen) ..	Eight per cent
134.	Sulphur ..	Eight per cent
135.	Brake fluid ..	Eight per cent
136.	Spectacles, sun glasses goggles, lenses, frames including attachments, parts and accessories thereof ..	Eight per cent."

7. Amendment of Fifth Schedule.—In the Fifth Schedule to the principal Act, for serial No. 8A, the following shall be substituted, namely:—

"8A. All varieties of textiles (other than silk fabric falling under serial number 130 of the Second Schedule) namely, cotton, woollen or artificial silk including rayon or nylon, whether manufactured in mills, powerlooms or handlooms silk fabrics woven on handlooms and hosiery cloth in length."

Declaration under the Karnataka Provisional Collection of Taxes Act, 1974.

It is hereby declared that it is expedient in public interest that the provisions of clauses 2, 3, 4, 5 and 6 of this Bill shall have immediate effect under the Karnataka Provisional Collection of Taxes Act, 1974.

Statement of Objects and Reasons

In order to augment the revenues of the State, it is proposed to amend the Karnataka Sales Tax Act, 1957. The Bill provides for :

(i) levy of an additional tax from certain categories of dealers ;

(ii) enhancement of single point tax in respect of certain commodities ;

(iii) enhancement of multi-point rate ;

(iv) reduction in the concessional Multi-point rate for certain Commodities ;

(v) levy of sales tax on silk fabrics other than fabrics woven on handlooms ;

(vi) inclusion of certain commodities in the II Schedule of the Act (**i.e.,** commodities liable to be taxed at single point rates)

Hence this Bill.

M. Y. GHORPADE

Te. HANUMANTHAPPA,
Secretary.

ANNEXURE

Extracts from the Karnataka Sales Tax Act, 1957 (Karnataka Act No. 25 of 1957)

x x x

5. Levy of tax on sale or purchase of goods.—(1) Every dealer shall pay for each year tax on his taxable turnover at the rate of three and a half per cent of such turnover.

Provided that if and to the extent to which such turnover relates to pur pulses including tur dhals, flour and husks, wheat (including atta, maida, soji and bran) rice (including parched rice and beaten rice and bran) ragi, jola, maize, bajra, navane samey, (ನಾಮು) and gunny bags, bardans (including Batars) and hessian cloth the tax shall be calculated at the rate of one and a half per cent of such turnover.

x x x

6. Levy of **purchase tax under certain circumstances.—Subject** to the provisions of sub-section (5) of section 5, every dealer who in the course of his business purchases any taxable goods in circumstances in which no tax under section 5 is leviable on the sale price of such goods and,

(i) either consumes such goods in the manufacture of other goods for sale or otherwise disposes of such goods in any manner other than by way of sale in the State, or

(ii) despatches them to a place outside the State except as a direct result of sale or purchase in the course of inter-State trade or commerce,

shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods under section 5:

Provided that this section shall not apply—

(i) in respect of sale or purchase of goods specified in the Fourth Schedule, and

(ii) in respect of sale or purchase of goods specified in the Second Schedule which have already been subject to tax under clause (a) of sub-section (3) of section 5.

x x x

18. Collection of tax by registered dealer.—(1) No person whose total turnover in any year is less than twenty-five thousand rupees shall collect any amount by way of tax or purporting to be by way of tax under this Act ; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed :

Provided that the amount which may be collected by way of tax shall not exceed the rate or rates of tax specified in respect of the sale or purchase of goods under this Act :

(2) Notwithstanding anything contained in sub-section (1) a dealer who has been permitted to pay any amount by way of composition under section 17, shall not collect any amount by way of tax or purporting to be by way of tax on the sale or purchase of goods if made during the period to which such composition applies :

29. Offences and penalties.—

(2)

(cc) collects any amount by way of tax or purporting to be by way of tax in contravention of sub-section (1) or sub-section (2) of section 18 : or

SECOND SCHEDULE

13.	Marble slabs and articles made of marble	Six per cent
49.	Gold thread	Three per cent
51.	Readymade garments other than Hosiery goods	Two per cent
77.	Mosaic tiles and chips	Eight per cent
81A.	Dusters and Sprayers used for dusting and spraying pesticides and insecticides and their parts and accessories (other than oil engine or electric motors)	Three per cent
86.	Arecanut	Three per cent
87.	Pepper	Three per cent
88.	Cashew and its Kernel	Three per cent
	* * *	
117.	Insecticides and Pesticides	Three per cent
	* * *	
129.	Linoleum	Ten per cent
	* * *	

FIFTH SCHEDULE

* * *

8A.	All varieties of textiles, namely, cotton, woollen, silk or artificial silk including rayon or nylon, whether manufactured in mills, powerlooms handlooms, and hosiery cloth in lengths	

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Ex. 866—2

THE BANGALORE DEVELOPMENT AUTHORITY BILL, 1975.

(L.A. BILL No. 14 OF 1975)

A Bill to provide for the establishment of a Development Authority for the development of the City of Bangalore and areas adjacent thereto and for matters connected therewith.

Whereas it is expedient to provide for the establishment of a Development Authority for the development of the City of Bangalore and areas adjacent thereto and for matters connected therewith;

Be it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Bangalore Development Authority Act, 1975.

(2) It extends to the whole of the City of Bangalore as defined in the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act 69 of 1949), the areas in respect of which the City of Bangalore Improvement Act, 1945 (Mysore Act 5 of 1945) is in force and to such other areas adjacent to the City of Bangalore as the State Government may, from time to time, by notification, specify.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) 'Authority' means the Bangalore Development Authority constituted under section 3;

(*b*) 'amenity' includes road, street, lighting, drainage, public works and such other conveniences as the Government may, by notification, specify to be an amenity for the purposes of this Act;

(*c*) 'Bangalore Metropolitan area' means the area over which the Authority has jurisdiction;

(*d*) 'betterment tax' means the tax payable under section 20 in respect of an increase in the value of land resulting from the execution of a development scheme;

(*e*) 'building' includes any structure or erection or part of a structure or erection or part of which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(*f*) 'building operations' includes rebuilding operations, structural alterations of or additions to buildings and other operations normally undertaken in connection with the construction of buildings;

(*g*) 'bye-laws' means bye-laws made by the Authority under this Act;

(*h*) 'Chairman' means the Chairman of the Authority;

(*i*) 'Corporation' means the City of Bangalore Municipal Corporation;

(*j*) 'development' with its grammatical variations means the carrying out of building, engineering, or other operations in, or over or under land or the making of any material change in any building or land and includes redevelopment;

(*k*) 'engineering operations' means formation or laying out of means of access to road:

(*l*) 'Government' means the State Government;

(*m*) 'land' includes benefits to arise out of land and things atached to the earth or permanently fastened to anything attached to the earth;

(*n*) 'local authority' means the City of Bangalore Municipal Corporation, a Taluk Development Board, a Municipal Council, a Town Panchayat or a Village Panchayat constituted or continued under any law for the time being in force;

(*o*) 'means of access' includes any means of access whether private or public, for vehicles or for foot passengers, and includes a road;

(*p*) 'regulation' means regulations made by the Authority under this Act;

(*q*) 'street' includes any high way and any causeway bridge, acquaduct, arch road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

(*r*) 'to erect' in relation to any building includes,—

(i) any material alteration or enlargement of any building;

(ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;

(iii) the conversion into more than one place for human habitation of a building originally constructed as one such place;

(iv) the conversion of two or more places of human habitation into a greater number of such places;

(v) such alterations of a building as affect an alteration of its drainage or sanitary arrangements or materially affect its security;

(vi) the addition of any rooms, buildings, houses or other structures to any building; and

(vii) the construction in a wall adjoining any street or land not belonging to the owner of the wall, or a door opening on to such street or land;

(viii) all other words and experessions used herein but not defined shall have the meaning respectively assigned to them in the City of Bangalore Municipal Corporation Act, 1949.

CHAPTER II

The Bangalore Development Authority

3. *Constitution and incorporation of the Authority.*— (1) With effect from the date of commencement of this Act, the Government shall, by notification, constitute an Authority to be called the Bangalore Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of the following members, namely:—

(*a*) the Chairman, to be appointed by Government;

(*b*) a finance member, who shall be an officer of the Indian Accounts and Audit Service not below the rank of a Deputy Accountant General to be appointed by Government;

(*c*) an engineer member who shall be an officer of the Karnataka Engineering Service not below the rank of a Chief Engineer, to be appointed by Government;

(*d*) a town planner member who shall be a person with experience in town planning to be appointed by Government;

(*e*) a person with experience in architecture, to be appointed by Government;

(*f*) a representative of the Bangalore Water Supply and Sewerage Board;

(*g*) a representative of the Karnataka Electricity Board;

(*h*) a representative of the Karnataka Road Transport Corporation;

(*i*) an officer of the Karnataka Health and Family Planning Services not below the rank of a Joint Director to be appointed by Government;

(*j*) two persons to be appointed by Government;

(*k*) two members of the Karnataka State Legislature to be appointed by Government;

(*l*) two persons elected by the Councillors of the Bangalore City Corporation from among themselves in the prescribed manner:

Provided that during the period of supersesion of the Corporation two persons shall be appointed by the Administrator from among the officers of the Corporation.

(4) The Chairman, the engineer member, the finance member and the town planner member shall be whole time members and the other members shall be part-time members.

(5) The names of the Chairman and other members appointed or elected) shall be published by Government by notification.

4. *Disqualification for office of member.*—(1) A person shall be disqualified for being appointed as and for being a member if he—

(*a*) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or

(*b*) is of unsound mind and stands so declared by a competent court; or

(*c*) is an undischarged insolvent; or

(*d*) has been removed or dismissed from the service of the Central Government or a State Government or a

Corporation owned or controlled by the Central Government or a State Government; or

(*e*) has directly or indirectly by himself or his partner any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of the Authority;

(*f*) being an elected member ceases to be a Councillor of the Corporation; or

(*g*) is employed as paid legal practitioner on behalf of the Authority or accepts employment as legal practitioner against the Authority.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Authority is inserted.

5. *Term of office and conditions of service of members.*—(1) Subject to the pleasure of the Government and the provisions of section 6, the Chairman and other members of the Authority shall hold office for a period of three years from the date on which they assume office and shall be eligible for re-appointment under such conditions as may be prescribed:

Provided that the term of office of the representative of the Corporation shall come to an end when he ceases to be a councillor or when the Corporation is superseded.

(2) The other conditions of service of members shall be such as may be prescribed.

(3) Any member other than an *ex-officio* member may resign his office by writing under his hand addressed to the Government but shall continue in office till his resignation is accepted by the Government.

(4) A casual vacancy caused by resignation of a member under sub-section (3) or otherwise may be filled by fresh appointment or election and the person so appointed or elected shall hold office for the remaining

period for which the member in whose place he was appointed or elected would have held office.

(5) No act or proceeding of the Authority shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the authority.

6. *Removal of member.*—The Government shall remove a member if—

(*a*) he becomes subject to any of the disqualifications mentioned in section 4 :

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(*b*) he refuses to act or becomes incapable of acting or ;

(*c*) he is without obtaining leave of absence from the Authority absents from three consecutive meetings of the Authority ;

(*d*) in the opinion of the Government he has so abused his position as to render his continuance in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. *Eligibility of members for re-appointment.*—Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment as a member.

8. *Meetings of the Authority.*—(1) The meetings of the Authority shall be convened by the Chairman and shall be held at any place within the jurisdiction of the Authority.

(2) The Authority shall meet at such times and shall observe such rules of procedure in regard to the

transaction of business at its meetings (including quorum at meetings) as may be provided by the regulations.

(3) The Chairman or if, for any reason he is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman or in his absence, the person presiding shall have and exercise a second or casting vote.

(5) A member shall not, at any meeting of the Authority or a committee thereof, take part in the discussion of or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

9. *Appointment of committees.*—(1) The Authority may from time to time appoint committees consisting of the Chairman and such other members as it thinks fit and may with the approval of the Government associate with such committees in such manner and for such period as may be prescribed, any person or persons whose assistance or advice it may desire and refer to such committees for inquiry and report any subject relating to the purposes of this Act.

(2) Every committee appointed under sub-section (1) shall conform to any instructions that may from time to time be given to it by the Authority and the Authority may at any time alter the constitution of any committee so appointed or rescind any such appointment. The Chairman shall be the President of every such committee.

10. *Powers of different authorities.*—(1) The Chairman may, on behalf of the Authority, sanction any estimate, call for tenders or enter into any contract or agreement the value or amount whereof shall not exceed

one lakh of rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; and every such contract or agreement shall be reported to the Authority at its next meeting.

(2) The Authority may sanction any estimate, call for tenders or enter into any contract or agreement the value whereof exceeds one lakh of rupees but does not exceed five lakhs of rupees; and where the value of any estimate, contract or agreement exceeds five lakhs of rupees the previous sanction of the Government shall be required.

(3) Every contract or agreement on behalf of the Authority, other than a contract or agreement referred to in sub-section (1), shall be in writing and shall be signed by the Chairman and sealed with the common seal of the Authority.

(4) The common seal of the Authority shall remain in the custody of the Chairman who shall personally affix the seal to any contract or other instrument.

(5) The acceptance of any tender under this section shall be subject to such rules as may be prescribed.

(6) A contract not made or executed as provided in this section and the rules made thereunder shall not be binding on the authority.

11. *Authority may compromise claims by or against it.*—The Authority may compound or compromise for or in respect of any claim or demand arising out of any contract entered into by it under this Act, or in respect of any action or suit instituted by or against it for such sum of money or other compensation as it shall deem sufficient:

Provided that no such claim or demand exceeding fifty thousand rupees shall be compounded or compromised without the prior approval of the Government.

12. *Duties of Chairman.*—The Chairman shall—

(*a*) attend every meeting of the Authority unless prevented by sickness or other reasonable cause;

(*b*) carry into effect the resolutions of the Authority;

(*c*) keep and conduct the Authority's correspondence;

(*d*) carry out and execute such schemes and works as the Government may direct and incur necessary expenditure therefor;

(*e*) exercise supervision and control over the Acts and proceedings of all officers and servants of the Authority in matters of executive administration, and in matters concerning the accounts and records of the Authority; and to the extent specified in sub-section (1) of section 51 dispose of all questions relating to the service of such officers and servants, and their pay, privileges and allowances; and

(*f*) furnish to the Government a copy of the minutes of the Authority's proceeding and any return or other information which the Government may from time to time call for.

13. *Appointment of acting Chairman.*—During the absence of the Chairman, the Government may appoint a person to act as Chairman, and any person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable.

14. *Objects of the Authority.*—The objects of the Authority shall be to promote and secure the development of the City of Bangalore and the areas adjacent thereto

to which this Act extends and for that purpose the Authority shall have the power to acquire, hold, manage, and dispose of movable and immovable property whether within or outside the area under its jurisdiction, to carry out building, engineering and other operations and generally to do anything necessary or expedient for the purpose of such development and for purposes incidental thereto.

CHAPTER III

Development Schemes

15. *Power of Authority to undertake works and incur expenditure for development, etc.*—(1) The Authority may,

(*a*) draw up detailed schemes (hereinafter refrred to as "development scheme") for the development of the areas to which this Act applies; and

(*b*) with the prior approval of the Government undertake from time to time any works and incur any expenditure for the development of any such area and for the framing and execution of such development schemes as may be necessary.

(2) The Authority may also from time to time make any new or additional development schemes—

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

(ii) on the recommendations of the local authority if the local authority places at the disposal of the Authority the necessary funds for framing and carrying out any such scheme, or

(iii) otherwise.

(3) Notwithstanding anything to the contrary contained in this Act, or in any other law for the time being in force, the Government may, whenever it deems it necessary require the Authority to take up any development scheme or work and execute it subject to such terms and conditions as may be specified by the Government.

16. *Particulars to be provided for in a development scheme.*—Every development scheme under section 15—

(1) shall, within the limits of the area comprised in the scheme provide for,—

(*a*) the acquisition of any land which will in the opinion of the Authority, be necessary for or affected by the execution of the scheme,—

(*b*) laying and re-laying out all or any land including the construction and reconstruction of buildings and formation and alteration of streets;

(*c*) draining streets so formed or altered;

(*d*) drainage, water supply and electricity;

(2) may, within the limits aforesaid, provide for—

(*a*) raising any land which the Authority may deem expedient to raise for the better drainage of the locality;

(*b*) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(*c*) the whole or any part of the sanitary arrangements required;

(*d*) the establishment or construction of markets and other public requirements or conveniences; and

(3) may, within and without the limits aforesaid provide for the construction of houses.

17. *Procedure on completion of scheme.*—(1) When a development scheme has been prepared, the Authority shall draw up a notification stating the fact of a scheme having been made and the limits of the area comprised therein, and naming a place where particulars of the scheme, a map of the area comprised therein and a statement specifying the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment tax may be seen at all reasonable hours.

(2) A copy of the said notification shall be sent to the Corporation which shall, within thirty days from the date of receipt thereof forward to the Authority for transmission to the Government as hereinafter provided, any representation which the Corporation may think fit to make with regard to the scheme.

(3) The Authority shall also cause a copy of the said notification to be published during three consecutive issues of the official Gazette and affixed in some conspicuous part of its own office, the Deputy Commissioner's office, the office of the Corporation and in such other places as the Authority may consider necessary.

(4) If no representation is received from the Corporation within the time specified in sub-section (2), the concurrence of the Corporation to the scheme shall be deemed to have been given.

(5) During the thirty days next following the day on which such notification is published in the official Gazette, the Authority shall serve a notice on every person whose name appears in the assessment list of the local authority or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which it is proposed to acquire in executing the scheme or in regard to which the Authority proposes to recover a betterment tax requiring such person to show cause within thirty days from the date of the receipt of the notice why such acquisition of the building or land and the recovery of betterment tax should not be made.

(6) Notice shall be signed by or by the order of the Chairman, and shall be served—

(*a*) by delivery of the same personally to the person required to be served or if such person is absent or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the land or building ; or

(*b*) by leaving the same at the usual or last known place of abode or business of such person as aforesaid ; or

(*c*) by registered post addressed to the usual or last known place of abode or business of such person.

18. *Sanction of scheme.*—(1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the scheme, the Authority shall after consideration of any representation received under section 17 and after making such modifications as it may think fit, submit the scheme to the Government for sanction, along with,—

(*a*) a description with full particulars of the scheme including the reasons for any modifications inserted therein ;

(*b*) complete plans and estimates of the cost of executing the scheme ;

(*c*) a statement speicfying the land proposed to be acquired ;

(*d*) any representation received under sub-section (2) of section 17 ;

(*e*) a schedule showing the ratable value, as entered in the municipal assessment book at the date of the publication of a notification relating to the land under section 17 of the land assessment. of all land specified in the statement under clause (c) ; and

(*f*) such other particulars, if any, as may be prescribed.

(2) Where under any development scheme provision is made for the construction of houses, the Authority may, after complying with the provisions of section 17, forthwith submit to the Government for sanction plans and estimates for the construction of such houses and on receipt of such sanction the provisions of section 19, shall, with all necessary modifications be applicable to the part of the scheme providing for the construction of such houses, as if such part were the scheme.

19. *Upon sanction, declaration to be publised giving particulars of land to be acquired.*—(1) Upon sanction of the scheme, the Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Authority for the purposes of the scheme is required for a public purpose.

(2) The declaration shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Autho rity shall, upon the publication of the said declaration proceed to execute the scheme.

(4) If at any time it appears to the Authority that an improvement can be made in any part of the scheme, the Authority may alter the scheme for the purpose of making such improvement and shall subject to the provisions of sub-section (5) and (6), forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of exercising the scheme as altered exceeds, by a greater sum than five per cent the estimated cost of executing the scheme as sanctioned the Authority shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the statement referred to in clause (c) of sub-section (1) of section 18, the provisions of sections 17 and 18 and of sub-section (1) of this section shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

20. *Levy of betterment tax.*—(1) Where as a consequence of execution of any development scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has

in the opinion of the Authority, increased or will increase the Authority, shall be entitled to levy on the owner of the land or any person having an interest therein a betterment tax in respect of the increase in value of the land resulting from the execution of such scheme.

(2) Such bettrement tax shall be an amonut equal to one third of the amount by which the market value of the property on the completion of execution of the development scheme estimated as if the property were clear of the buildings exceeds the market value of the property prior to such execution estimated in like manner.

(3) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme, estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment tax shall be one third of such increase in value.

21. *Assessment of betterment tax by the Authority.*— (1) When it appears to the Authority that a development scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Authority shall, by a resolution passed in this behalf declare that for the purpose of determining such tax, the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed has been served under sub-section (5) of section 17 or to the successor in interest of such person, as the case may be, that the Authority proposes to assess the amount of the betterment tax payable in respect of such land under section 20.

(2) The Authority shall then assess the amount of betterment tax payable by each person concerned after giving such person an opportunity of being heard and such person shall, within three months from the date of receipt of notice in writing of such assessment inform the Authority in writing whether or not he accepts the assessment.

(3) When the assesment proposed by the Authority is accepted by the person concerned within the period specified in sub-section (2), such assesment shall be final.

(4) If the person concerned does not accept the assessment made by the Authority or fails to give the Authority the information required under sub-section (2) within the period specified therin the Authoirty shall make a reference to the District Court for determining the betterment tax payable by such person.

22. *Manner of payment of betterment tax.*—The betterment tax determined under section 21 shall be paid within such time and in such numbers of instalments not exceeding ten as may be specified by the Authority together with interest at such rates as may be prescribed.

23. *Betterment tax to be first charge.*—The betterment tax payable under section 22 shall, notwithstanding anything contained in any law and notwithstanding the existance of any mortgage or other charge, whether legal or equitable, created either before or after the commencement of this Act, be a first charge upon the interest of such person in such land.

24. *Recovery of betterment tax.*—Where any person liable to pay betterment tax fails to pay the same within the time specified by the Authority or makes default in payment of two consecutive instalments or any three instalments, the Authority shall be entitled to recover the whole of the amount due together with interest from the said person, or his successor-in-interest in such land in the manner provided by the City of Bangalore Municipal Corporation Act, 1949, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell

the land or the interest of the said person or his successor in interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

25. *Agreement of payment not to bear acquisition under a fresh declaration.*—If any land, in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 21 or has been made after its determination under section 22 be subsequently required for any of the purposes of this Act, the payment or agreement shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

26. *Power of Authority to take up works for further Development.*—(1) Notwithstanding anything contained in any other provision of this Act, the Authority may, with the previous sanction of the Government, take up such works in regard to any area as the Authority considers necessary or desirable for the further development of the area :

Provided that the Corporation shall be consulted if such area lies within the limits of the City of Bangalore.

(2) The expenditure incurred or proposed to be incurred or such portion thereof as may be determined by the Authority and approved by the Government in carrying out such works may be recovered by a pro-rata levy on the onwers of properties benefited by such works as may be determined by the Authority. The said sum may be recovered as any other sum due to the Authority under the provisions of this Act.

27. *Crediting betterment tax collected to the funds of the Corporation in certain cases.*—Where the increase in value of any land is due to the execution of a development

scheme made on the recommendation of the Corporation and for which the Corporation has placed at the disposal of the Authority the necessary funds for framing and carry-out such schemes, the beterment tax collected by the Authority from the owners of such land shall be credited by the Authority to hte Municipal Fund of the Corporation.

28. *Authority to execute the scheme within seven years.*—Where within a period of seven years from the date of the publication in the official Gazette of the declaration under sub-section (1) of section 19, the Authority fails to execute the scheme substantially, the scheme shall lapse and the provisions of section 42 shall become inoperative.

29. *Land vested in Corporation and required by the Authority for formation of street to be vested temporarily in the Authority.*—Whenever under any development scheme, the whole or any part of an existing public street or other land vested in the Corporation is included in the site of any part of a street to be formed, altered, widened, raised, re-arranged or re-constructed by the Authority, the Authority shall give notice to the Corporation that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the "part required") is required by it as part of a street to be dealt with as aforesaid, and the part required shall thereupon, subject to the provisions of sub-section (1) of section 30, be vested in the Authority

Provided that nothing in this section shall be deemed to affect the rights or powers of the Corporation under the City of Bangalore Municipal Corporation Act. 1949 in or over any Corporation drain or water work.

30. *Authority and Chairman to exercise powers and functions under Mysore Act 69 of 1949.*—(1) In any area or part thereof to which this Act applies, the Government may, by notification, declare that from such date and

for such period as may be specified therein and subject to such restrictions and modifications ,if any, as may be specified in the notification.—

(i) the powers and functions of the Corporation or a standing committee thereof under the City of Bangalore Municipal Corporation Act, 1949, shall be exercised and discharged by the Authority; and

(ii) the powers and functions of the Commissioner of the Corporation under the said Act shall be exercised and discharged by the Chairman :

Provided that the Corporation shall be consulted before making such declaration, if such area or part thereof lies within the limits of the City of Bangalore.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the Corporation or any standing committee thereof or the Commissioner of the Corporation, shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Authority or the Chairman, as the case may be, by such declaration.

(3) The Authority or the Chairman may delegate any of the functions exerciseable by it or him under sub-section (1) to any officer or servant of the Authority.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control as may be laid down by the Authority or the Chairman, as the case may be.

31. *Streets on completion to vest in and be maintained by Corporation.*—(1) The Government after consulting the Corporation and on being satisfied that any street formed by the Authority has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any scheme

sanctioned by the Government and that such lamps, lamp posts and other apparatus as are in its opinion necessary for the lighting thereof and should be provided by the Authority have been so provided, shall declare such street to be a public street, and such street shall thereupon vest or revest as the case may be, in the Corporation and the Corporation shall thereafter maintain, keep in repair, light and cleanse such street.

(2) Any open space including such parks and play grounds as may be notified by the Government reserved for ventilation in any part of the area under the jurisdiction of the Authority as part of any development scheme sanctioned by the Government, shall be transferred on completion to the Corporation for maintenance at the expense of the Corporation and shall thereupon vest in the Corporation.

(3) Any dispute which arises between the Authority and the Corporation in respect of any of the provisions of this section shall be determined by the Government whose decision shall be final.

32. *Authority not to sell or otherwise dispose of sites in certain cases.*—The Authority shall not sell or otherwise dispose of any sites for the purpose of constructing buildings thereon for the accommodation of persons until all the improvements specified in section 31 have been substantially provided for in the estimates.

33. *Forming of new extentions or layouts or making new private streets.*—(1) Notwithstanding anything to the contrary in any law for the time being in force, no person shall form or attempt to form any extension or layout for the purpose of constructing buildings thereon without the express sanction in writing of the Authority and except in accordance with such conditions as the Authority may specify:

Provided that where any such extension or layout lies within the local limits of the Corporation, the Authority

shall not sanction the formation of such extension or lay-out without the concurrence of the Corporation :

Provided further that where the Corporation and the Authority do not agree, on the formation of or the conditions relating to the extension or layout, the matter shall be referred to the Government whose decision thereon shall be final.

(2) Any person intending to form an extension or layout or to make a new private street, shall send to the Chairman a written application with plans and sections showing the following particulars,—

(*a*) the laying out of the sites of the area upon streets, lands or open spaces ;

(*b*) the intended level, direction and width of the street ;

(*c*) the street alignment and the biulding line, and the proposed sites abutting the streets ;

(*d*) the arrangement to be made for levelling, paving metalling, flagging channelling, sewering, draining, conserving and lighting the streets and for adequate drinking water supply.

(3) The provisions of this Act and any rules or bye-laws made under it as to the level and width of streets and the height of buildings abutting thereon, shall apply also in the case of streets referred to in sub-section (2) and all the particulars referred to in that sub section shall be subject to the approval of the authority.

(4) Within six months after the receipt of any application under sub-section (2), the Authority shall either sanction the forming of the extension or layout or making of street on such conditions as it may think fit or disallow it, or ask for further information with respect to it.

(5) The Authority may require the applicant to deposit, before sanctioning the application the sums necessary for meeting the expenditure for making roads, side-drains, culverts, underground drainage and water supply

and lighting and the charges for such other purposes as such applicant may be called upon by the Authority, provided the applicant also agrees to transfer the ownership of the roads, drains water supply mains and open spaces laid out by him to the Authority permanently without claiming any compensation therefor.

(6) Such sanction may be refused:—

(i) if the proposed street would conflict with any arrangements which have been made or which in the opinion of the Authority is likely to be made for carrying out any general scheme of street improvement or other schemes of development or expansion by the Authority; or

(ii) if the proposed street does not conform to the provisions of the Act, rules and bye-laws referred to in sub-section (3), or

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open; or

(iv) if the layout in the opinion of the Authority cannot be fitted with any existing or proposed expansion or development schemes of the Authority.

(7) No person shall form a layout or make any new private street without the sanction of, or otherwise than in conformity with the conditions imposed by the Authority. If the Authority requires further information from the applicant no steps shall be taken by him to form the layout or make the street until orders have been passed by the Authority after the receipt of such information:

Provided that the passing of such orders shall not, in any case, be delayed for more than six months after the Authority has received all the information which it considers necessary to enable it to deal finally with the said application.

(8) If the Authority does not refuse sanction within six months from the date of the application under sub-section (2), or from the date of receipt of all information asked for under sub-section (7), such sanction shall be deemed to have been granted and the applicant may

proceed to form the extension or layout or to make the street, but not so as to contravene any of the provisions of this Act and the rules or bye-laws made under it.

(9) Any person who forms or attempts to form any extension or layout in contravention of the provisions of sub-section (1), or makes any street without or otherwise than in conformity with the orders of the Authority under this section, shall be liable, on conviction, to a fine which may extend to ten thousand rupees.

34. *Alteration or demolition of extension, layout or street.*—(1) If any person forms an extension or layout or makes any street referred to in section 33 or put up any building without or otherwise than in conformity with the orders of the Authority under the said sub-section the Chairman may, whether or not the offender be prosecuted under this Act, by notice,—

(*a*) require the offender to show sufficient cause, by a written statement signed by him and sent to the Chairman on or before such day as may be specified in the notice, why such extension, layout or street should not be altered to the satisfaction of the Chairman or if such alteration be deemed impracticable by the Chairman why such extension, layout or street should not be demolished; or

(*b*) require the offenders to appear before the Chairman either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Chairman why such extension, layout or street should not be so altered or demolished, the Chairman may pass an order directing the alteration or demolition of such extension, layout or street.

35. *Power of Authority to order work to be carried out or to carry it out itself in default.*—(1) The Authority may,—

(*a*) if any person who applies for permission under section 33 and is permitted expressly by it to carry out

himself the works relating to the forming of the extension or layout or the making of a street, does not so carry it out; or

(*b*) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Authority by notice, require the person forming the extension or lay-out or the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part, including in cases where the owners of the land and of the building thereon are different, the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Authority may, if it thinks fit, execute it itself or cause it to be executed and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1) in such proportions as may be determined by the Authority. Such expenses may be recovered from the persons concerned as if they were arrears of land revenue.

CHAPTER IV

Acquisition of Land

36. *Authority to have power to acquire land by agreement.*—Subject to the provisions of this Act and with the prior approval of the Government the Authority may enter into an agreement with the owner of any land or any interest therein whether situated within or without the City of Bangalore for the purchase of such land or interest therein for the purpose of this Act.

37. *Provisions applicable to the acquisition of land otherwise than by agreement.*—The acquisition otherwise than by agreement of land within or without the City of

Bangalore under this Act shall be regulated by the provisions so far as they are applicable of the Land Acquisition Act, 1894 and by the following further provisions, namely :—

(1) Upon the passing of a resolution by the Authority that a development scehme under section 15 is necessary in respect of any locality it shall be lawful for any person either generally or specially authorised by the Authority in this behalf and for his servants and workmen, to do all such acts on or in respect of land in that locality as it would be lawful for an officer duly, authorised by the Government to act under sub-section (2) of section 4 of the Land Acquisition Act, 1894 and for his servants and workmen to do thereunder; and the provision contained in section 5 of the said Act shall likewise be applicable in respect of damage caused by any of the Acts first mentioned.

(2) The publication of a declaration under section 14 shall be deemed to be the publication of a declaration under section 6 of the Land Acquisition Act, 1894.

(3) For the purpose of sub-section (2) of section 50 of the Land Acquisition Act, 1894, the Authority shall be deemed to be the local authority concerned.

(4) After the land vests in the Government under section 16 of the Land Acquisition Act, 1894 the Deputy Commissioner shall, upon payment of the cost of the acquisition, and upon the Authority agreeing to pay any further costs which may be incurred on account of the acquisition, transfer the land to the Authority, and the land shall thereupon vest in the Authority.

CHAPTER V

Property and Finance

38. *Power of Government to transfer to Authority, lands belonging to it or to Corporation.*—(1) The Government may, by notification from time to time, for the purposes of this Act and subject to such limitations and

conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Authority any land belonging to Government or to the Corporation.

(2) No land belonging to a local authority shall be vested in the Authority under sub-section (1) except after consulting such local authority.

(3) Whenever it appears to the Government that any land vested in the Authority under sub-section (1) is not required by the authority for the purpose of this Act or any other land vesting in the authority is required by the Government or the local authority, the Government may by notification, direct that the land shall revest in or stand transferred to Government or the local authority concerned as the case may be.

39. *Power of Authority to lease, sell or transfer property.*—(1) Subject to such restrictions, conditions limitations as may be prescribed the Authority shall have power to lease, sell or otherwise transfer any movable or immovable property which belongs to it, and to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any development scheme.

(2) The restrictions, conditions and limitations contained in any grant or other transfer of any immovable property or any interest therein made by the Authority shall notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882) or any other law, have effect according to their tener.

40. *Power of Authority to borrow.*—(1) The Authority may, from time to time, with the previous sanction of the Government and subject such conditions as may be prescribed in this behalf, borrow any sum required for the purpose of this Act.

(2) The rules made by the Government for the purpose of this section may empower the Authority to borrow by the issue of debentures and to make arrangement with the bankers.

(3) Debentures issued by the Authority shall be in such form as the Authority, with the sanction of the Government may, from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Authority.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Government.

41. *Development Fund and the items to be credited to such fund.*—(1) The rents, profits, and sale proceeds of all lands, buildings and other property vested or vesting in or acquired by the Authority under this Act shall be credited to a fund to be called "the City of Bangalore Development Fund."

(2) There shall also be credited to the said fund-

(*a*) any amount borrowed under section 40;

(*b*) such sums as may be placed by the Government at the disposal of the Authority from time to time for the purposes of this Act; and

(*c*) such contributions as the Corporation may, from time to time be called upon by the Government to make, after consideration by the Government of the relief or addition to the Municipal resources accruing or likely to accrue as the result of development schemes undertaken by the Authority:

(*d*) subject to the provisions of section 31, betterment tax and other sums due and paid to or recovered by the Authority under the provisions of this Act,

42. *Application of the Development Fund.*—(1) The said fund shall be held by the Authority in trust, and shall be applied by it, subject to the general or special orders of the Government, in payment of the charges incidental to the carrying out of the purposes of this Act.

(2) Such charges shall be held to include, among other things—

(*a*) the cost, if any, of maintaining a separate establishment for the collection of the rents and profits and other proceeds of property vested or vesting in or acquired by the Authority under this Act;

(*b*) the cost of petty and other establishments, not being part of the scheduled staff, necessary for the supervision of properties or other revenue purposes;

(*c*) the cost of management including the salaries and allowances of the scheduled staff and all incidental expenses; and

(*d*) all payments made by the Authority in respect of rates and taxes levied under the City of Bangalore Municipal Corporation Act, 1949 upon lands and buildings vested in the Authority and not subject to exemption.

(3) The Authority may also, from time to time, and in the prescribed manner, make advances from the said fund for the purpose of enabling persons not being Government servants to provide themselves with houses or other accommodation.

43. *Laying of annual estimate of income and expenditure.*—(1) The Chairman shall, at a special meeting to be held not later than the first day of February in each year, lay before the Authority an estimate of the income and of the expenditure of the Authority for the year commencing on the first day of April then next ensuing in such detail and form as the Authority shall, from time to time, direct.

(2) Such estimate shall make provision for the efficient administration of this Act and a copy thereof shall be sent by post or otherwise to each member of the Authority, at least ten clear days prior to the date of the meeting before which the estimate is to be laid.

44. *Authority to approve or amend such estimate.*—The Authority shall consider the estimate so submitted to

it, and shall approve the same either unaltered, or subject to such alterations as it thinks fit.

45. *Estimates to be submitted to Government for sanction.*—The estimate, as approved by the Authority, shall be submitted to the Government which may, either sanction or disallow such estimate, or any portion thereof and return the same for amendment. The Authority shall, forthwith amend the estimate so returned and shall re-submit the amended estimate to the Government. A copy of the estimate as sanctioned by the Government shall be sent to the Corporation.

46. *Supplementary estimates may be prepared and submitted when necessary.*—The Authority may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to it. Every such supplementary estimate shall be considered and approved by the Authority and submitted to the Government and a copy shall be sent to the Corporation in the same manner as if, it were an original annual estimate.

47. *Provisions regarding expenditure.*—No sum shall be expended by or on behalf of the Authority, unless included in the estimate or the supplementary estimate which has been sanctioned by the Government, or in the amount payable by the Authority under a decree or award of a court :

Provided that in any case of unforeseen circumstances a sum not exceeding ten thousand rupees may be expended though not so included and in such a case the Chairman shall forthwith report to the Government the circumstances in which the expenditure was incurred and the source from which it is proposed to be met :

Provided further that any such expenditure shall be included in a supplementary estimate to be approved and sanctioned in the manner laid down in section 46.

48. *Audit of accounts.*—(1) The accounts of the Authority shall be audited annually by an auditor appointed by the Government.

(2) The auditor shall, for the purpose of the audit, have access to all the accounts and other records of the Authority.

(3) The Authority shall pay from its Fund such charges for the audit as may be prescribed.

49. *Power of auditor to require production of document and attendance of persons concerned.*—(1) The Auditor may,—

(*a*) require in writing the production of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts as he may think fit;

(*b*) require in writing any salaried sarvant of the Authority accountable for, or having the custody or control of such vouchers, statements, returns, correspondence notes or other documents or of any property of the Authority or any person having directly or indirectly by himself or his partner any share or interest in any contract with or under the Authority to appear in person before him at the office of the Authority and answer any question.

CHAPTER VI

Officers and Servants of the Authority

50. *Schedule of Officers and servant to be submitted for sanction of Government.*—The Authority shall, from time to time prepare and submit for the sanction of the Government a schedule of the staff of officers and servants whom it shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Authority proposes for each such officer or servant. No alteration in the sanctioned schedule shall be made without the sanction of the Government.

51. *Appointments, etc., by whom to be made.*—(1) Subject to the provisions of the regulations framed under section 71 and of the schedule for the time being in force sanctioned by the Government under section 50, the power of appointing, promoting, suspending dismissing, fining, reducing or granting leave to the officers and servants of the Authority (not being officers in Government service lent to the Authority) shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed one hundred and fifty rupees and in every other case by the Authority :

Provided that in the case of officers in Government service lent to the Authority the Chairman may exercise the powers of sanctioning or withholding increments, fining or suspending, and shall report the fact to the Head of the Department of Government to which such officer belongs.

(2) The power of dispensing with the service of any officer or servant of the Authority not being an officer in Government service lent to the Authority otherwise than by reason of such officers or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall subject to the provisions of sub-section (1) be exercised by the Authority only.

CHAPTER VII

Art Commission

52. *Constitution of Art Commission.*—(1) The Government may, by notification, constitute an Art Commission for the State to be called. "The Karnataka Urban Art Commission" which shall consist of a Chairman and such other members representing among others, visual arts or architecture, Indian History or Archaeology and the environmental sciences, as they may appoint.

(2) It shall be the duty of the Art Commission to make recommendations to the Government as to—

(i) restoration and conservation of urban design and of the environment in the development areas;

(ii) the planning and development of future urban design and of the environment;

(iii) the restoration and conservation of archaeological and historical sites and sites of high scenic beauty;

(iv) the grants, concessions and other modes of compensation for purchase or acquisition that should be made for the purpose by the Government or any Authority and the conditions subject to which such grants, concessions and compensation should be made; and

(v) any other matter referred to the Commission by the Government.

(3) The powers to be exercised and the functions to be performed and the procedure to be followed by the Art Commission shall be such as may be prescribed.

(4) The Government may after consideration of the recommendations of the Art Commission and after giving an opportunity to the Authority or Authorities concerned to make any representation, issue such directions to the Authority or Authorities concerned as they may think fit; and the authority or Authorities shall comply with every such direction of the Government.

CHAPTER VIII

MISCELLANEOUS

53. Powers of entry.—The Authority may authorise any person to enter into or upon any land or building with or without assistants or workmen for the purpose of—

(*a*) making any enquiry, inspection, measurement or survey or taking levels of such land or building;

(*b*) examining works under construction and ascertaining the course of sewers and drains;

(*c*) digging or boring into the sub-soil;

(*d*) setting out boundaries and intended lines of work;

(*e*) making such levels, boundaries and lines by placing marks and cutting trenches;

(*f*) ascertaining whether any land is being or has been developed in contravention of any plan or in contravention of any condition subject to which such permission has been granted; or

(*g*) doing any other thing necessary for the efficient administration of this Act:

Provided that—

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;

(ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building;

(iii) due regard shall always be had, so far as may be compatiable with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

54. *Offences by companies.*—(1) If the person commiting an offence under this Act is a company every person, who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be

deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) 'company' means a body corporate and includes a firm or other association of individuals; and

(*b*) 'director' in relation to a firm means a partner in the firm.

55. *Fines when realised to be credited to the City of Bangalore Development Fund.*—All fines realised in connection with prosecutions under this Act shall be paid to the credit of the City of Bangalore Development Fund.

56. *Composition of offences.*—(1) The Authority or any person authorised by the Authority by general or special order in this behalf may, either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

57. *Authentication of orders and documents of the Authority.*—All permissions, orders, decisions, notices and other documents of the Authority shall be authenticated by the signature of the secretary to the Authority or any other officer authorised by the Authority in this behalf.

58. *Members and officers to be public servants.*—Every member and every officer and other employee of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

59. *Jurisdiction of courts.*—No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

60. *Sanction of prosecution.*—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority.

61. *Magistrate's power to impose enhanced penalties.*—Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 it shall be lawful for any court of a magistrate of the first class to pass any sentence authorised by this Act in excess of its powers under the said section.

62. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

63. *Power to delegate.*—The Authority may, by notification direct that any power exercisable by it under this Act except the power to make regulations may also be exercised by the Chairman or such officer of the Authority as may be specified in the notification subject to such restriction and conditions as may be specified therein.

64. *Revision.*—(1) The Government may call for the records of any proceedings of the Authority or any officer subordinate to the Authority for the purpose of satisfying itself as to the legality or propreity of any order or proceedings and may pass such order with respect thereto as it thinks fit.

(2) The Authority may call for the records of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceeding and may pass such order with respect thereto as it thinks fit.

(3) No order under sub-section (1) or sub-section (2) shall be made to the prejudice of any person unless he has had a reasonable opportunity of being heard.

65. *Notice of suit against the Authority.*—No suit or other proceedings shall be commenced against the Authority or any member or any officer or servant of the Authority or against any person acting under the direction of the Authority, the member or officer of the Authority for anything done, or purporting to have been done, in pursuance

of this Act or a rule, regulation or bye-law thereunder without giving to the Authority one month's previous notice in writing of the intended suit or other proceedings, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceedings nor after tender of sufficient amends.

66. *Government's power to give directions to Authority.*—The Government may give such directions to the Authority as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the Authority to comply with such directions.

67. *Default in performance of duty.*—(1) If the Government is satisfied that the authority has made default in performing any duty imposed on it by or under this Act, it may fix a period for the performance of that duty.

(2) If in the opinion of the Government the Authority fails or neglets to perform such duty within the period so fixed for its performance, it shall be lawful for the Government, notwithstanding anything contained in section 6, to supersede and reconstitute the Authority in the prescribed manner.

(3) After the supersession of the Authority and until it is reconstituted, the powers, duties and functions of the Authority under this Act shall be carried on by the Government or by such officer or officers as the Government may appoint for this purpose.

68. *Amendment of the Karnataka Town and Country Planning Act,* 1961.—(1) In the Karnataka Town and Country Planning Act, 1961 (Karnataka Act II of 1963),—

(*a*) in section 2, for item (i) of sub-clause (*a*) of clause (7), the following item shall be substituted namely :—

"(i) the local planning area comprising the City of Bangalore, the Bangalore Development Authority, and" shall be substituted;

(*b*) after section 81-A, the following section shall be inserted, namely :—

"81-B. *Consequences to ensue upon the constitution of the Bangalore Development Authority.*—Notwithstanding anything contained in this Act, with effect from the date on which the Bangalore Development Authority is constituted under the Bangalore Development Authority Act, 1975 the following consequences shall ensue, namely :—

(i) The Bangalore Development Authority shall be the local Planning Authority for the local planning area comprising the City of Bangalore with jurisdiction over the area which the City Planning Authority for the City of Bangalore had jurisdiction immediately before the date on which the Bangalore Development Authority is constituted;

(ii) the Bangalore Development Authority shall exercise the powers, perform the functions and discharge the duties under this Act as if it were a Local Planning Authority constituted for the Bangalore City;

(ii) the City Planning Authority shall stand dissolved and upon such dissolution,—

(*a*) anything done or any action taken (including any appointment, notification, order, scheme or bye-law made or issued), any commencement certificate or permission granted, by the Bangalore City Local Planning Authority shall be deemed to have been done, taken, made, issued or granted under the provisions of this Act by the Bangalore Development Authority and continue to be in force until it is superseded by anything done or any action taken, any appointment, notification, order, scheme, or bye-law, made or issued commencement certificate or permission granted by the Bangalore Development Authority under the provisions of this Act;

(*b*) all obligations and liabilities incurred, all contracts entered into, all matters and things engaged to be done, by, with or for the Bangalore City Local Planning Authority shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Bangalore Development Authority.

(*c*) all property, movable and immovable and all interests of whatsoever nature and kind therein vested in the Bangalore City Local Planning Authority shall with all rights of whatsoever discription used, enjoyed or possessed by the Bangalore City Local Planning Authority, vest in the Bangalore Development Authority;

(*d*) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Bangalore City Local Planning Authority may be continued or be instituted by or against the Bangalore Development Authority."

69. *Housing Board not to undertake any Housing Scheme.*—After the commencement of this Act, the Housing Board established under the Karnataka Housing Board Act, 1962 (Karnataka Act 10 of 1963) shall not undertake any Housing Scheme in any area within the jurisdiction of the Authority.

70. *Power to make rules.*—(1) The Government may by notification make rules to carryout the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(*a*) for the guidance of the Authority and persons connected with the administration of this Act or in cases not expressly provided for herein;

(*b*) the manner of election of members by the Councillors of the Corporation;

(*c*) the conditions of service of the Chairman and other members of the Authority;

(*d*) the manner of appointment of Committee and the period of such appointment;

(*e*) the terms and conditions subject to which the Authority may take up development scheme or work and execute it;

(*f*) the particulars to be specified in the application of the scheme;

(*g*) the restrictions, conditions and limitations subject to which the Authority may lease, sell or transfer movable or immovable property;

(*h*) regulating the allotment or sale by auction of sites by the Authority;

(*i*) the manner of reconstitution of the Authority;

(*j*) any other matter which has to be, or may be prescribed by rules.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall from the date on which the modification or annulment is notified by the Government in the official Gazette have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

71. *Power to make regulations.*—(1) The Authority may, with the previous approval of the Government make regulations, not inconsistent with the provisions of this Act or the rules made thereunder to carryout the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for,—

(*a*) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum thereat;

(*b*) giving instructions to the Committees;

(*c*) the form of contract or agreement to be entered into by the Authority;

(*d*) the appointment of persons for enforcement of processes for recovery of dues;

(*e*) the procedure to be followed for the carrying out of the functions of the Authority under Chapters II and III;

(*f*) for regulating the grant of leave, leave allowances, pensions and gratuities and other matters relating to conditions of service of the officers and servants of the Authority not being officers in Government service lent to the Authority;

(*g*) any other matter which is to be prescribed by regulations under the Act.

(2) The Government may, by notification, rescind any regulation made under this section and thereupon, the said regulation shall cease to have effect.

(3) All regulations made under this section shall be published in the official Gazette.

72. *Power to make bye-laws.*—(1) The Authority may with the previous approval of the Government and subject to the condition of previous publications make bye-laws not inconsistent with the rules or the regulations made under this Act, in respect of the following matters, namely:—

(*a*) the management, use and regulation of houses constructed under any scheme;

(*b*) regulating the construction and reconstruction of building, in regard to such matters as the following namely, the notice to be given previous to erection, the plans to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the building, the level and width of foundation, the stability of structure, the materials to be used and the provision to be made for the drainage and ventilation; and

(*c*) the forming of extensions or lay-outs and the laying out of private streets, for determining the information and plans to be submitted with applications for

permission to form extensions or lay outs and to make private streets; and for regulating the level and width of streets and the height of buildings abutting thereon.

(2) The Government may, by notification, rescind any bye-law made under this section and thereupon, the said bye-law shall cease to have effect.

(3) All bye-laws made under this section shall be published in the official Gazette and also in at least two newspapers in English and Kannada having large circulation in the City of Bangalore.

73. *Penalty for breach of the provisions of the Act.*—Whoever contravenes any of the provisions of this Act or of any rule, regulation, or bye-law or scheme made or sanctioned thereunder shall, be punished with fine which may extend to twenty-five rupees and in the case of a continuing contravention, with fine which may extend to five rupees for each day after the first during which the contravention continues.

74. *Act to over-ride other laws.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

75. *Removal of difficulties.*—Notwithstanding anything contained in this Act if any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the official Gazette as the occasion may require do anything not inconsistent with the provisions of this Act, which appears to it to be necessary for removing the difficulty.

76. *Dissolution of the Authority.*—(1) The Government may, by notification, declare that with effect from such date as may be specified in the notification, the Authority shall be dissolved :

Provided that no such declaration shall be made by the Government unless a resolution to that effect has been

moved in and passed by both Houses of State Legislature.

(2) With effect from the date specified in the notification under sub-section (1),—

(*a*) all properties, funds, and dues which are vested in and realisable by the Authority shall vest in and be realisable by the Government;

(*b*) all liabilities enforceable against the Authority shall be enforceable against the Government to the extent of the properties, funds and dues vested in and realised by the Government.

(3) Nothing in this section shall affect the liability of the Government in respect of loans or debentures guaranteed under sub-section (5) of section 40.

77. *Repeal and savings.*—(1) The City of Bangalore Improvement Act, 1945 (Mysore Act 5 of 1945) is hereby repealed:

Provided that such repeal shall not affect,—

(*a*) the previous operation of the said Act or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid,

and any such investigation legal proceeding or remedy may be instituted, continued or enforced, and any such

penalty, forfeiture, punishment may be imposed as if this Act had not been passed :

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment, notification, rule, regulation, order, scheme or bye-law made or issued, any permission granted) under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken this Act :

Provided also that any reference in any enactment or in any instrument to any provision of the repealed Act shall unless a different intention appears be construed as a reference to the corresponding provision of this Act

(2) Notwithstading the provisions of sub-section (1),—

Provided also that all the assets and liabilities of, and all contracts made by or on behalf the Board of trustees for the improvement of the City of Bangalore before the date of commencement of this Act and subsisting on that day shall subject to such conditions as may be specified by the State Government, devolve on the Authority.

(a) every officer and other employee serving under the Board constituted under the City of Bangalore Improvement Act, 1945 immediately before the date of commencement of this Act shall, on and from such date, be transferred to and become an officer or other employee of the Authority and shall hold office by the same tenure, at the same renumeration and on the same terms and conditions of service as he would have held the same if the Act had not been repealed and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority :

Provided that any service rendered by any such officer or other employee before the repeal of the City of Bangalore

Improvement Act, 1945 shall be deemed to be service rendered under the authority:

Provided further that the Authority may employ any such officer or other employee for the discharge of such functions under this Act as it may think proper and every such officer or other employee shall discharge those functions accordingly;

(*b*) The City of Bangalore Improvement (Allotment of Sites) Rules, 1972 and the City of Bangalore Improvement (Disposal of Corner Sites and Commercial Sites) Rules, 1972 relating to allotment of sites shall be continued to be in force unless and until superseded by or under the provisions of this Act as if the provisions of the said rules had not been repealed.

STATEMENT OF OBJECTS AND REASONS

At the conference of the Ministers for Housing and Urban Development held at Delhi in November 1971, it was agreed that a common Authority for the deveopment of metropolitan cities should be set up.

Bangalore City with its population (as per last census) is a Metropolitan City. Different Authorities like the City of Bangalore Municipal Corporation, the City Improvement Trust Board, the Karnataka Industrial Area Development Board, the Housing Board and the Bangalore City Planning Authority are exercising jurisdiction over the area. Some of the functions of these bodies like development, planning, etc., are overlapping creating thereby avoidable confusion, besides hampering coordinated development. It is, therefore considered necessary to set up a single authority like the Delhi Development Authority for the city areas adjacent to it which in course of time will become part of the city.

Hence this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 5.—Sub-clause (1) empowers the Government to prescribe by rules the conditions subject to which the Chairman or other members of the Authority shall be eligible for reappointment.

(2) Sub-clause (2) empowers the Government to prescribe by rules other conditions of the service to the members.

Clause 9.—Sub-clause (1) empowers the Government to prescribe by rules the manner and the period for which the Authority may with the approval of the Government associate any person or persons whose assistance or advice it may desire with the committees.

Clause 10—Sub-clause (5) empowers the Government to make rules regarding acceptance of any render under the said clause.

Clause 18.—Item (f) of sub-caluse (1) empowers the Government to prescribe by rules other particulars to be furnished by the Authority in the scheme submitted to Government.

Clause 22.—This clause empowers the Government to prescribe by rules the rate of interest to be paid on the betterment tax.

Clause 40.—Sub-clause (1) empowers the Government to prescribe by rules the conditions subject to which the Authority may borrow any sum required for the purpose of the Act.

Clause 42.—Sub-clause (3) empowers the Government to prescribe by rules the manner in which the Authority may make advances from the development fund for the purposes specified in the said sub-clause.

Clause 48.—Sub-clause (3) empowers the Government to prescribe by rules the charges to be paid out of the funds of the Authority to the auditor.

Sub-clause (4) empowers the State Government to prescribe the powers to be exercised and the functions to be performed by the Commission as also the procedure to be followed by the Commission.

Clause 67.—Sub-clause (2) empowers the Government to prescribe by rules the manner in which the superseded Authority shall be reconstituted.

Clause 70.—This clause empowers the Government to make rules for the purposes specified therein. The rules made are required to be laid before both the Houses of the State Legislature and are subject to modification made by both the Houses.

Clause 75.—This clause empowers the Government to make by order published in the official gazette anything not inconsistent with the provisions of the Act, which appears to be necessary for removing any difficulty arising in giving effect to the provisions of the Act.

The delegation of the proposed legislative power is of a normal character.

D. K. NAIKAI

Te. HANUMANTHAPPA
Secretary.

ANNEXURE

Extract from the Karnataka Town and Country Planning Act, 1961
(*Karnataka Act No.* 11 *of* 1963)

* * *

2. *Definitions.*—In this Act, unless the context otherwise requires.—

* * *

(7) 'Planning Authority' means,—

(a) in the case of—

(i) the local planning area comprising the City of Bangalore and

(ii) any other local planning area in respect of which the State Government may deem it expedient to constitute a separate Planning Authority,

the Planning Authority constituted under this Act.

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